IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 260 OF 2003.

Sadashiv Kiru Parab,
H. No. 133/3, Palmar Wado,
Pomburpa, Bardez Goa. ... Petitioner.

Versus

1. Town and Country Planning
   Department through Chief
   Town Planner, Govt. of Goa.
2. Village Panchayat of
   Pomburpa/Olaulim through
   its Sarpanch, Bardez Goa.
3. Senior Town Planner,
   Town and Country Department,
   Govt. of Goa. ... Respondents.

Mr. V.A. Lawande, Advocate for the Petitioner.

Mr. Guru Shirodkar, Additional Government Advocate for the Respondents 1 and 3.

Coram : F.I. REBELLO AND
P.V. HARDAS, JJ.

Date : 17th June 2003.

ORAL JUDGMENT (PER REBELLO, J.)

Rule. Respondents 1 and 3 waive service. Considering the Order to be passed, notice to respondent no. 2 is dispensed with.

2. The petitioner was granted a licence for construction pursuant to a No Objection Certificate granted by the Town and Country Planning Department. It appears that some objections/complaints were received by the Office of the Town and Country Planning Department, which, by letter dated 24th March 2003, informed the respondent no. 2 that the No Objection Certificate

granted stands revoked as the applicant has not undertaken any construction till date as per the physical verification made by the Official of the Department. The petitioner had a licence in his favour. Admittedly, before cancellation of the No Objection Certificate, no show cause notice was issued to the petitioner herein nor was he granted an opportunity of showing cause against the proposed decision.

At the hearing of the petition, on behalf of the petitioner it is contended that the revocation has visited the petitioner with civil consequences. Once that be the case, the petitioner ought to have been given a hearing and as the petitioner was not given a hearing, that Order is liable to be set aside. On behalf of the respondents it is contended that there were complaints and it was found that the construction was falling in the road widening area and in this circumstance, the Order dated 24th March 2003 was issued. In these circumstances, it is submitted that this Court should not interfere with the Order dated 24th March 2003. Even otherwise it is submitted that respondent no. 2 has issued a show cause notice to the petitioner and the petitioner can show cause and as such he has full opportunity of putting up his case. It is contended on behalf of the petitioner that merely because respondent no. 2 has issued a show cause

notice, it does not mean that respondent no. 3 could have revoked the permission granted.

3. Once the no objection certificate has been revoked, the respondent no. 2 will have no choice but to revoke the licence granted as the licence was granted on the said no objection certificate. In these circumstances, while revoking the no objection certificate, the petitioner had to be heard as the Order visits the petitioner with civil consequences and as such in breach of the principles of natural justice and fair play. The Order dated 24th March 2003 is, therefore, liable to be quashed and set aside. It will be open to the respondent no. 3, if so advised, after giving notice to the petitioner, to re-consider the question of revocation.

4. In the light of that, petition made absolute in terms of prayer clause (a) with the directions as aforestated. Rule accordingly. There shall be no order as to costs.

(F.I. REBELLO)
JUDGE.

(P.V. HARDAS)
JUDGE.

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